



General Assembly

February Session, 2010

***Raised Bill No. 5445***

LCO No. 2001

\*02001\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE DEATH PENALTY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-466 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) (1) An application for a writ of habeas corpus, other than an  
4 application pursuant to subdivision (2) of this subsection, shall be  
5 made to the superior court [, or to a judge thereof,] for the judicial  
6 district in which the person whose custody is in question is claimed to  
7 be illegally confined or deprived of such person's liberty.

8 (2) An application for a writ of habeas corpus claiming illegal  
9 confinement or deprivation of liberty, made by or on behalf of an  
10 inmate or prisoner confined in a correctional facility as a result of a  
11 conviction of a crime, shall be made to the superior court [, or to a  
12 judge thereof,] for the judicial district of Tolland.

13 (b) The application shall be verified by the affidavit of the applicant  
14 for the writ alleging that he truly believes that the person on whose  
15 account the writ is sought is illegally confined or deprived of his

16 liberty.

17 (c) The writ shall be directed to some proper officer to serve and  
18 return, who shall serve the same by putting a true and attested copy of  
19 it into the hands of the person who has the custody of the body of the  
20 person who is directed to be presented upon the writ. If the officer fails  
21 to make immediate return of the writ, with his actions thereon, he shall  
22 pay fifty dollars to the person so held in custody.

23 [(d) Any judge of the Superior Court to whom an application for a  
24 writ of habeas corpus is made may make the writ returnable before  
25 any other judge of the court, the consent of the other judge being first  
26 obtained; and the other judge shall thereupon proceed with the matter  
27 with the same authority as though the application had been originally  
28 presented to him.

29 (e) If the application is made to a judge, the judge may certify the  
30 proceedings into court and the case shall thereupon be entered upon  
31 the docket and proceeded with as though the application had  
32 originally been made to the court.]

33 [(f)] (d) A foster parent or an approved adoptive parent shall have  
34 standing to make application for a writ of habeas corpus regarding the  
35 custody of a child currently or recently in his care for a continuous  
36 period of not less than ninety days in the case of a child under three  
37 years of age at the time of such application and not less than one  
38 hundred eighty days in the case of any other child.

39 (e) Upon the filing of an application for a writ of habeas corpus  
40 challenging a conviction of a capital felony and a sentence of death, the  
41 Chief Court Administrator shall designate one judge of the Superior  
42 Court to monitor the pleadings and to dispose of the case in a  
43 summary manner as set forth in section 52-470.

44 Sec. 2. Subsection (c) of section 54-95 of the general statutes is  
45 repealed and the following is substituted in lieu thereof (*Effective from*

46 *passage*):

47 (c) In any criminal prosecution in which the defendant has been  
 48 sentenced to death, [and has taken an appeal to the Supreme Court of  
 49 this state or the Supreme Court of the United States or brought a writ  
 50 of error, writ of certiorari or petition for a new trial, the taking of the  
 51 appeal, the making of the application for a writ of certiorari or the  
 52 return into court of the writ of error or petition for a new trial shall,  
 53 unless, upon application by the state's attorney and after hearing, the  
 54 Supreme Court otherwise orders, stay the execution of the death  
 55 penalty until the clerk of the court where the trial was had has received  
 56 notification of the termination of any such proceeding by decision or  
 57 otherwise, and for thirty days thereafter] the sentence shall be stayed  
 58 during the pendency of the direct appeal and for thirty days thereafter.  
 59 If the defendant brings a petition for writ of certiorari to the Supreme  
 60 Court of the United States, the sentence shall be stayed until the  
 61 Supreme Court of the United States has finally determined the matter  
 62 and for ten days thereafter. If the defendant brings an application for a  
 63 writ of habeas corpus or a timely petition for a new trial, the sentence  
 64 shall be stayed until the matter is finally determined and for thirty  
 65 days thereafter. The filing of a petition for certification to appeal the  
 66 denial of an application for a writ of habeas corpus or the filing of an  
 67 appeal from the denial of a petition for a new trial shall stay the  
 68 execution of the sentence until any appeal to the Appellate Court or  
 69 Supreme Court of this state is finally determined and for ten days  
 70 thereafter or until ten days after the petition for certification is denied  
 71 if no appeal is filed. Only the first application for a writ of habeas  
 72 corpus or petition for a new trial shall give rise to an automatic stay  
 73 pursuant to this subsection. If the defendant brings a second or  
 74 subsequent application for a writ of habeas corpus or petition for a  
 75 new trial, any motion for a stay of the sentence shall be made to the  
 76 Supreme Court of this state and shall only be granted upon a showing  
 77 by the defendant of a likelihood of success upon the merits. No  
 78 appellate procedure shall be deemed to have terminated until the end  
 79 of the period allowed by law for the filing of a motion for reargument,

80 or, if such motion is filed, until the proceedings consequent thereon are  
81 finally determined. When execution is stayed under the provisions of  
82 this section, the clerk of the court shall forthwith give notice thereof to  
83 the warden of the institution in which such defendant is in custody. If  
84 the original judgment of conviction has been affirmed or remains in  
85 full force at the time when the clerk has received the notification of the  
86 termination of any proceedings by appeal, [writ of certiorari, writ of  
87 error or] petition for a new trial or application for a writ of habeas  
88 corpus, and the day designated for the infliction of the death penalty  
89 has then passed or will pass within thirty days thereafter, the  
90 defendant shall, within said period of thirty days, upon an order of the  
91 court in which the judgment was rendered at a regular or special  
92 criminal session thereof, be presented before said court by the warden  
93 of the institution in which the defendant is in custody or his deputy,  
94 and the court, with the judge assigned to hold the session presiding,  
95 shall thereupon designate a day for the infliction of the death penalty  
96 and the clerk of the court shall issue a warrant of execution, reciting  
97 therein the original judgment, the fact of the stay of execution and the  
98 final order of the court, which warrant shall be forthwith served upon  
99 the warden or his deputy.

100 Sec. 3. (NEW) (*Effective October 1, 2010*) The Division of Criminal  
101 Justice, the Division of Public Defender Services, the Judicial  
102 Department, the Division of State Police within the Department of  
103 Public Safety and the Department of Correction shall collect and  
104 maintain information on the actual costs incurred by each such agency  
105 in the investigation, prosecution, defense, adjudication or  
106 postconviction review of capital felony cases and in the incarceration  
107 of, or the incarceration and execution of, persons convicted of a capital  
108 felony.

109 Sec. 4. (NEW) (*Effective October 1, 2010*) The Chief Public Defender,  
110 the Chief State's Attorney and the Chief Court Administrator, or their  
111 designees, shall develop and implement a plan for the collection and  
112 maintenance of information on all homicide cases that could be

113 charged and prosecuted as capital felonies, notwithstanding that any  
114 such homicide case is not charged, prosecuted or disposed of as a  
115 capital felony. Such information shall include, but not be limited to: (1)  
116 Information on the race, ethnicity, gender, religion, sexual orientation,  
117 age and socioeconomic status of the defendant or defendants and the  
118 victim or victims, (2) information on the geographic area where the  
119 offense occurred and where the offense was prosecuted, (3) the nature  
120 and circumstances of the offense, (4) the offense or offenses for which  
121 the defendant was charged, (5) the offense or offenses for which the  
122 defendant was prosecuted, (6) if the case was tried by a jury, the race,  
123 ethnicity and gender of the persons who served on the jury and the  
124 persons who were excused from serving on the jury, (7) the offense or  
125 offenses for which the defendant was convicted or acquitted, (8) the  
126 sentence sought by the prosecution, and (9) if the defendant was  
127 convicted, whether such conviction was the result of a trial or a plea,  
128 and the sentence imposed.

129       Sec. 5. (NEW) (*Effective October 1, 2010*) (a) No person shall be  
130 subject to a sentence of death or sentenced to death if such sentence  
131 was sought on the basis of the race, ethnicity, gender, religion or  
132 sexual orientation of the defendant or the victim.

133       (b) A defendant charged with the commission of a crime punishable  
134 by death may raise a claim that considerations of the race, ethnicity,  
135 gender, religion or sexual orientation of the defendant or the victim  
136 played a significant part in the decision to seek or impose a sentence of  
137 death in his or her case. The defendant shall raise such claim at the  
138 pretrial conference. The defendant shall state with particularity how  
139 the evidence supports such claim.

140       (c) The court shall schedule a hearing on the claim and shall  
141 prescribe a time for the submission of evidence by both parties.

142       (d) At such hearing, the defendant has the burden of proving by  
143 clear and convincing evidence that the race, ethnicity, gender, religion  
144 or sexual orientation of the defendant or the victim was the basis of the

145 decision to seek the death penalty. The state may offer evidence in  
146 rebuttal of the claims or evidence of the defendant.

147 (e) Evidence relevant to establish a finding that the race, ethnicity,  
148 gender, religion or sexual orientation of the defendant or the victim  
149 was the basis of the decision to seek a sentence of death may include  
150 statistical evidence or other evidence, or both, that sentences of death  
151 were sought significantly more frequently: (1) Upon persons of one  
152 race, ethnicity, gender, religion or sexual orientation than upon  
153 persons of another race, ethnicity, gender, religion or sexual  
154 orientation, or (2) as punishment for offenses punishable by death  
155 committed against persons of one race, ethnicity, gender, religion or  
156 sexual orientation than as punishment for offenses punishable by  
157 death committed against persons of another race, ethnicity, gender,  
158 religion or sexual orientation.

159 (f) A finding that the race, ethnicity, gender, religion or sexual  
160 orientation of the defendant or the victim was the basis of the decision  
161 to seek a sentence of death may be established if the court finds that  
162 the race, ethnicity, gender, religion or sexual orientation of the  
163 defendant or the victim was a significant factor in decisions to seek the  
164 sentence of death in other cases in this state at the time the sentence of  
165 death was sought.

166 (g) If the court finds that the race, ethnicity, gender, religion or  
167 sexual orientation of the defendant or the victim was the basis of the  
168 decision to seek the sentence of death, the court shall order that a  
169 sentence of death shall not be sought.

170 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) There is established a  
171 Death Penalty Authorization Committee for the purpose of reviewing  
172 and authorizing requests by prosecutorial officials to seek the death  
173 penalty with respect to defendants charged with the commission of  
174 crimes punishable by death. The committee shall consist of the Chief  
175 State's Attorney and the state's attorneys appointed for each judicial  
176 district. The Chief State's Attorney shall serve as chairperson of the

177 committee.

178 (b) Whenever a defendant is charged with a crime punishable by  
179 death and the prosecutorial official intends to seek the imposition of  
180 the death penalty upon such defendant if such defendant is convicted  
181 of such crime, the prosecutorial official shall file a request for  
182 authorization to seek the death penalty with the committee.

183 (c) The prosecutorial official shall prepare a memorandum in  
184 support of such official's request for authorization to seek the death  
185 penalty in such form and providing such information as the committee  
186 may prescribe. The prosecutorial official shall submit to the committee  
187 all relevant information in the official's possession about the  
188 defendant's character, background or history, and the nature and  
189 circumstances of the crime.

190 (d) The prosecutorial official shall consult with the family of the  
191 victim concerning the decision whether to seek the death penalty and  
192 if the official decides to file a request for authorization to seek the  
193 death penalty the official shall include the views of the family in the  
194 official's submission to the committee.

195 (e) In any case in which a prosecutorial official is considering  
196 whether to request authorization to seek the death penalty, the official  
197 shall give the defendant or the defendant's attorney a reasonable  
198 opportunity to present any facts, including mitigating factors, to the  
199 official for consideration in the official's decision to seek the death  
200 penalty. If the prosecutorial official decides to file a request for  
201 authorization to seek the death penalty, the official shall include any  
202 written material provided by the defendant or the defendant's attorney  
203 in opposition to such request in the official's submission to the  
204 committee.

205 (f) Except as otherwise required by law, the memorandum and  
206 information submitted by the prosecutorial official to the committee  
207 shall not be subject to discovery by the defendant or the defendant's

208 attorney.

209 (g) The committee shall review requests for authorization to seek  
210 the death penalty filed in accordance with subsection (b) of this  
211 section. The committee shall consider all the information submitted by  
212 the prosecutorial official and shall provide the defendant's attorney  
213 with an opportunity to present to the committee the reasons why the  
214 death penalty should not be sought. After considering all the  
215 information submitted, the committee, by a majority vote of the total  
216 membership of the committee, shall approve or deny such request in  
217 writing.

218 (h) No prosecutorial official shall seek the imposition of the death  
219 penalty without the prior written authorization of the committee.

220 Sec. 7. Section 53a-46a of the general statutes is amended by adding  
221 subsection (j) as follows (*Effective October 1, 2010*):

222 (NEW) (j) No court shall impose the sentence of death pursuant to  
223 this section unless the prosecutorial official has, prior to  
224 commencement of trial or acceptance of a guilty plea, filed a request  
225 for authorization to seek the death penalty pursuant to section 6 of this  
226 act and the Death Penalty Authorization Committee has approved  
227 such request pursuant to said section.

228 Sec. 8. (NEW) (*Effective October 1, 2010*) The Office of the Chief  
229 Public Defender shall establish an annual training program for public  
230 defenders and special assistant public defenders who represent  
231 defendants charged with the commission of a crime punishable by  
232 death.

233 Sec. 9. (NEW) (*Effective October 1, 2010*) The Office of the Chief  
234 State's Attorney shall establish an annual training program for  
235 prosecutors who represent the state in cases in which a defendant is  
236 charged with the commission of a crime punishable by death.

237 Sec. 10. (NEW) (*Effective October 1, 2010*) There is established a



238 Capital Defense Support Unit within the Office of the Chief Public  
239 Defender to provide support services to special assistant public  
240 defenders appointed by the court to represent defendants charged  
241 with the commission of a crime punishable by death. The unit shall  
242 provide support services and resources to such special assistant public  
243 defenders including, but not limited to, full-time investigators and  
244 mitigation specialists, comparable to the services and resources  
245 provided to public defenders in similar cases.

246 Sec. 11. Section 53a-46b of the general statutes is repealed and the  
247 following is substituted in lieu thereof (*Effective October 1, 2010*):

248 (a) Any sentence of death imposed in accordance with the  
249 provisions of section 53a-46a, as amended by this act, shall be  
250 reviewed by the Supreme Court pursuant to its rules. In addition to its  
251 authority to correct errors at trial, the Supreme Court shall either  
252 affirm the sentence of death or vacate said sentence and remand for  
253 imposition of a sentence in accordance with subdivision (1) of section  
254 53a-35a.

255 (b) The Supreme Court shall affirm the sentence of death unless it  
256 determines that: (1) The sentence was the product of passion, prejudice  
257 or any other arbitrary factor; [or] (2) the evidence fails to support the  
258 finding of an aggravating factor specified in subsection (i) of section  
259 53a-46a, as amended by this act; or (3) the sentence is excessive or  
260 disproportionate to the penalty imposed in similar cases, considering  
261 both the circumstances of the crime and the character and record of the  
262 defendant. In conducting the proportionality review required by  
263 subdivision (3) of this subsection, the Supreme Court may review  
264 similar cases by examining summaries of such cases and shall not be  
265 required to examine the complete record of such cases.

266 (c) The sentence review shall be in addition to direct appeal and, if  
267 an appeal is taken, the review and appeal shall be consolidated for  
268 consideration. The court shall then render its decision on the legal  
269 errors claimed and the validity of the sentence.

270       Sec. 12. (NEW) (*Effective October 1, 2010*) (a) For the purposes of this  
271 section:

272       (1) "Custody" means the circumstance when (A) a person has been  
273 placed under formal arrest, or (B) there is a restraint on a person's  
274 freedom of movement of the degree associated with a formal arrest  
275 and a reasonable person, in view of all the circumstances, would have  
276 believed that he or she was not free to leave;

277       (2) "Interrogation" means questioning initiated by a law  
278 enforcement official or any words or actions on the part of a law  
279 enforcement official, other than those normally attendant to arrest and  
280 custody, that such official should know are reasonably likely to elicit  
281 an incriminating response from the person;

282       (3) "Place of detention" means a police station or barracks,  
283 courthouse, correctional facility, community correctional center,  
284 detention facility or any facility under the control of a law enforcement  
285 agency; and

286       (4) "Person suspected of murder" means a person who a law  
287 enforcement official reasonably suspects has committed a murder.

288       (b) Whenever a person suspected of murder is in custody of a law  
289 enforcement official at a place of detention, a law enforcement official  
290 shall, prior to any interrogation of such person, advise such person: (1)  
291 That he or she has the right to remain silent and to refuse to make any  
292 statement, (2) that any statement he or she makes can be used against  
293 him or her in a court of law, (3) that he or she has the right to the  
294 presence of an attorney, and (4) that, if he or she cannot afford an  
295 attorney, an attorney will be appointed for him or her prior to any  
296 interrogation if he or she so desires.

297       (c) Whenever a person suspected of murder is in custody of a law  
298 enforcement official at a place of detention, a law enforcement official  
299 shall not interrogate such person unless such person has knowingly,

300 intelligently and voluntarily waived the rights set forth in subsection  
301 (b) of this section.

302 (d) Whenever a person suspected of murder is in custody of a law  
303 enforcement official at a place of detention and subjected to  
304 interrogation, a law enforcement official shall cause to be electronically  
305 recorded by means of a video and audio recording device or, if the use  
306 of such video and audio recording device is not practicable, by means  
307 of an audio recording device: (1) The advisement of rights by a law  
308 enforcement official pursuant to subsection (b) of this section, (2) the  
309 waiver of rights by such person pursuant to subsection (c) of this  
310 section, and (3) the entire interrogation.

311 Sec. 13. (NEW) (*Effective October 1, 2010*) (a) There is established an  
312 electronic recording of custodial interrogations grant program which  
313 shall be administered by the Office of Policy and Management. Grants  
314 may be made to municipalities for the purpose of purchasing  
315 equipment for the electronic recording of custodial interrogations of  
316 persons suspected of murder, as required by section 12 of this act.

317 (b) Funds appropriated for the purpose of this section shall be used  
318 only for grants to eligible municipalities and may not be used for  
319 administrative purposes by the Office of Policy and Management.

320 Sec. 14. (NEW) (*Effective October 1, 2010*) (a) For the purposes of this  
321 section:

322 (1) "Eyewitness" means a person who observes another person at or  
323 near the scene of an offense;

324 (2) "Photo lineup" means a procedure in which an array of  
325 photographs, including a photograph of the person suspected as the  
326 perpetrator of an offense and additional photographs of other persons  
327 not suspected of the offense, is displayed to an eyewitness for the  
328 purpose of determining whether the eyewitness is able to identify the  
329 suspect as the perpetrator;

330 (3) "Live lineup" means a procedure in which a group of persons,  
331 including the person suspected as the perpetrator of an offense and  
332 other persons not suspected of the offense, is displayed to an  
333 eyewitness for the purpose of determining whether the eyewitness is  
334 able to identify the suspect as the perpetrator;

335 (4) "Identification procedure" means either a photo lineup or a live  
336 lineup; and

337 (5) "Filler" means either a person or a photograph of a person who is  
338 not suspected of an offense and is included in an identification  
339 procedure.

340 (b) Not later than January 1, 2011, each municipal police department  
341 and the Department of Public Safety shall adopt procedures for the  
342 conducting of photo lineups and live lineups that comply with the  
343 following requirements:

344 (1) When practicable, the person conducting the identification  
345 procedure shall be a person who is not aware of which person in the  
346 photo lineup or live lineup is suspected as the perpetrator of the  
347 offense;

348 (2) The photo lineup and live lineup identification procedures shall  
349 be conducted in sequence so that the eyewitness is shown each  
350 photograph or each person one at a time rather than viewing the  
351 photographs or the persons simultaneously;

352 (3) The eyewitness shall be instructed prior to the identification  
353 procedure:

354 (A) That the perpetrator may not be among the persons in the photo  
355 lineup or the live lineup;

356 (B) That the eyewitness should not feel compelled to make an  
357 identification;

358 (C) That each photograph or person will be viewed one at a time;

359 (D) That the photographs or persons will be displayed in random  
360 order;

361 (E) That the eyewitness should take as much time as needed in  
362 making a decision about each photograph or person before moving to  
363 the next one; and

364 (F) That all photographs or persons will be shown to the eyewitness,  
365 even if an identification is made before all have been viewed;

366 (4) The photo lineup or live lineup shall be composed so that the  
367 fillers generally fit the description of the person suspected as the  
368 perpetrator and, in the case of a photo lineup, so that the photograph  
369 of the person suspected as the perpetrator resembles his or her  
370 appearance at the time of the offense and does not unduly stand out;

371 (5) If the eyewitness has previously viewed a photo lineup or live  
372 lineup in connection with the identification of another person  
373 suspected of involvement in the offense, the fillers in the lineup in  
374 which the person suspected as the perpetrator participates shall be  
375 different from the fillers used in any prior lineups;

376 (6) At least five fillers shall be included in the photo lineup and at  
377 least four fillers shall be included in the live lineup, in addition to the  
378 person suspected as the perpetrator;

379 (7) In a photo lineup, no writings or information concerning any  
380 previous arrest of the person suspected as the perpetrator shall be  
381 visible to the eyewitness;

382 (8) In a live lineup, any identification actions, such as speaking or  
383 making gestures or other movements, shall be performed by all lineup  
384 participants;

385 (9) In a live lineup, all lineup participants shall be out of the view of

386 the eyewitness at the beginning of the identification procedure;

387 (10) The person suspected as the perpetrator shall be the only  
388 suspected perpetrator included in the identification procedure;

389 (11) Nothing shall be said to the eyewitness regarding the position  
390 in the photo lineup or the live lineup of the person suspected as the  
391 perpetrator, except as otherwise provided in subparagraph (D) of  
392 subdivision (3) of this subsection;

393 (12) Nothing shall be said to the eyewitness that might influence the  
394 eyewitness's selection of the person suspected as the perpetrator;

395 (13) If the eyewitness identifies a person as the perpetrator, the  
396 eyewitness shall not be provided any information concerning such  
397 person prior to obtaining the eyewitness's statement that he or she is  
398 certain of the selection;

399 (14) A written record of the identification procedure shall be made  
400 that includes the following information:

401 (A) All identification and nonidentification results obtained during  
402 the identification procedure, signed by the eyewitness, including the  
403 eyewitness's own words regarding how certain he or she is of the  
404 selection;

405 (B) The names of all persons present at the identification procedure;

406 (C) The date and time of the identification procedure;

407 (D) The order in which the photographs or persons were displayed  
408 to the eyewitness;

409 (E) In a photo lineup, the photographs themselves;

410 (F) In a photo lineup, identification information and the sources of  
411 all photographs used; and

412 (G) In a live lineup, identification information on all persons who  
413 participated in the lineup.

414 Sec. 15. (NEW) (*Effective October 1, 2010*) (a) For the purposes of this  
415 section, "informant" means a person who was incarcerated or  
416 otherwise detained at the same time as the defendant.

417 (b) Whenever, in the prosecution of a defendant for the commission  
418 of a crime punishable by death, the prosecutorial official intends to  
419 introduce evidence of incriminating statements made by the defendant  
420 to an informant, the official shall, prior to commencement of trial,  
421 timely disclose such intent to the defendant and the court.

422 (c) The court shall, prior to commencement of trial, conduct an  
423 evidentiary hearing to determine whether the testimony of the  
424 informant is reliable, unless the defendant waives such hearing. The  
425 prosecutorial official shall have the burden of showing by a  
426 preponderance of the evidence that the testimony of the informant is  
427 reliable.

428 (d) In determining whether the testimony of the informant is  
429 reliable, the court shall consider:

430 (1) The complete criminal history of the informant;

431 (2) Any deal, promise, inducement or benefit that any prosecutorial  
432 official or law enforcement official, or any agent of such official, has  
433 made or will make in the future to the informant;

434 (3) The statements made by the defendant;

435 (4) The time and place of the statements, the time and place of their  
436 disclosure to law enforcement officials and the names of all persons  
437 who were present when the statements were made;

438 (5) Whether at any time the informant recanted that testimony or  
439 statement and, if so, the time and place of the recantment, the nature of

440 the recantment and the names of the persons who were present at the  
441 recantment;

442 (6) Other cases, of which the prosecutorial official is aware, in which  
443 the informant testified against an individual or offered a statement  
444 against an individual, and whether the informant received any deal,  
445 promise, inducement or benefit in exchange for or subsequent to that  
446 testimony or statement; and

447 (7) Any other information relevant to the informant's credibility.

448 Sec. 16. (NEW) (*Effective October 1, 2010*) (a) In any prosecution of a  
449 defendant for the commission of a crime punishable by death, the  
450 prosecutorial official in charge of the case shall, without request  
451 therefor, disclose to the defendant in writing the existence of, and  
452 make available to the defendant for inspection, photographing,  
453 copying and reasonable testing, all materials and information with  
454 respect to such crime in the possession, custody or control of the  
455 Division of Criminal Justice, except that nothing shall require the  
456 disclosure and inspection, photographing, copying and testing of (1)  
457 reports and memoranda or other internal documents made by a  
458 prosecutorial official or law enforcement official in connection with the  
459 investigation or prosecution of the case, and (2) materials and  
460 information exempted by court order pursuant to subsection (d) of this  
461 section.

462 (b) The materials and information required to be disclosed pursuant  
463 to subsection (a) of this section shall be in addition to any exculpatory  
464 materials and information required to be disclosed and made available  
465 pursuant to section 54-86c of the general statutes or any other  
466 provision of law.

467 (c) Each law enforcement official shall provide to the prosecutorial  
468 official in charge of the prosecution of a person for the commission of a  
469 crime punishable by death, all materials and information with respect  
470 to such crime which such law enforcement official has in such official's



471 possession, custody or control.

472 (d) Upon motion of the prosecutorial official, and for good cause  
473 shown, a court may order that the disclosure and inspection,  
474 photographing, copying and testing of materials and information  
475 required pursuant to subsection (a) of this section be denied, restricted  
476 or deferred.

477 (e) The prosecutorial official in charge of the case shall prepare and  
478 maintain a written inventory of all materials and information with  
479 respect to such crime in the possession, custody or control of the  
480 Division of Criminal Justice and shall keep a written record of all  
481 materials and information disclosed to the defendant pursuant to  
482 subsection (a) of this section.

483 Sec. 17. Section 53a-46d of the general statutes is repealed and the  
484 following is substituted in lieu thereof (*Effective October 1, 2010*):

485 [A] If a defendant is convicted of or pleads guilty to a crime  
486 punishable by death, a victim impact statement prepared with the  
487 assistance of a victim advocate to be placed in court files in accordance  
488 with subdivision (2) of subsection (a) of section 54-220 [may] shall be  
489 read in court [prior to imposition of sentence upon a defendant found  
490 guilty of a crime punishable by death] after the jury or, if there is no  
491 jury, the court returns a special verdict pursuant to subsection (e) of  
492 section 53a-46a, as amended by this act, and prior to the imposition by  
493 the court of the sentence upon the defendant.

494 Sec. 18. (*Effective October 1, 2010*) The sum of \_\_\_\_ dollars is  
495 appropriated, from the General Fund, to the Division of Criminal  
496 Justice, for the fiscal year ending June 30, 2011, for purposes of (1) the  
497 training of prosecutors required by section 9 of this act, and (2) hiring  
498 additional prosecutors and support staff to handle appellate and  
499 habeas corpus proceedings in cases in which a defendant has been  
500 convicted of a crime punishable by death.

501       Sec. 19. (*Effective October 1, 2010*) The sum of \_\_\_\_ dollars is  
 502 appropriated, from the General Fund, to the Public Defender Services  
 503 Commission, for the fiscal year ending June 30, 2011, for purposes of  
 504 (1) payment of an increased hourly compensation rate to special  
 505 assistant public defenders appointed by the court to represent  
 506 defendants charged with the commission of a crime punishable by  
 507 death, (2) the training of public defenders and special assistant public  
 508 defenders required by section 8 of this act, (3) hiring two appellate  
 509 attorneys, one paralegal and two secretaries or clerks, (4) providing  
 510 additional office space, (5) establishing a computerized database for  
 511 Connecticut death penalty law, (6) hiring an attorney to design and  
 512 maintain such database, and (7) establishing a post-conviction unit to  
 513 handle appellate and habeas corpus proceedings in cases in which a  
 514 defendant has been convicted of a crime punishable by death.

515       Sec. 20. (*Effective October 1, 2010*) The sum of \_\_\_\_ dollars is  
 516 appropriated, from the General Fund, to the Judicial Department, for  
 517 the fiscal year ending June 30, 2011, for purposes of ensuring the  
 518 timely adjudication of habeas corpus matters.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	52-466
Sec. 2	<i>from passage</i>	54-95(c)
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	53a-46a
Sec. 8	<i>October 1, 2010</i>	New section
Sec. 9	<i>October 1, 2010</i>	New section
Sec. 10	<i>October 1, 2010</i>	New section
Sec. 11	<i>October 1, 2010</i>	53a-46b
Sec. 12	<i>October 1, 2010</i>	New section
Sec. 13	<i>October 1, 2010</i>	New section
Sec. 14	<i>October 1, 2010</i>	New section

Sec. 15	<i>October 1, 2010</i>	New section
Sec. 16	<i>October 1, 2010</i>	New section
Sec. 17	<i>October 1, 2010</i>	53a-46d
Sec. 18	<i>October 1, 2010</i>	New section
Sec. 19	<i>October 1, 2010</i>	New section
Sec. 20	<i>October 1, 2010</i>	New section

***Statement of Purpose:***

To revise the process for seeking post-conviction relief in death penalty cases and adopt the recommendations of the Connecticut Commission on the Death Penalty submitted to the General Assembly in January, 2003.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*